

REMARKS

The Office Action dated January 27, 2005 rejected 1-4, 7-9, 11-18, 21-23, 25-32, 35-37, and 39-42. Applicants amend claims 3-4, submit herewith a section 131 declaration signed by the available inventors, and submit herewith a Notice of Appeal.

CLAIM AMENDMENTS

Applicants have made minor amendments to claims 3 and 4. Specifically, references to the "network" have been changed to refer to the "Internet," to reflect the previously entered amendments to claim 1. No new matter has been added.

FIRST GROUND OF REJECTION

The Office rejected claims 1-4, 7-9, 15-18, 21-23, 29-32, and 35-37 under 35 U.S.C. § 103(a) as being unpatentable over Siegel et al. (U.S. Application 2002/0077923), Takae et al. (U.S. Application 2002/0040325), and Kirkpatrick et al. (U.S. Application 2001/0042022). Applicants respectfully traverse this rejection.

Neither Siegel nor Takae qualify as prior art because both references were filed after the present invention was reduced to practice.

The Section 131 Declaration filed herewith shows that the present invention was reduced to practice in the United States at least as early as December 8, 2000. This date is before the filing date of both Siegel (filed December 20, 2000) and Takae (filed March 14, 2001).¹

Applicants submit herewith a Section 131 Declaration signed by each of the currently available inventors. Applicants were not able to contact Hsyh-Min Hsu because he is no longer employed by the Assignee and his current address is unknown. The remaining four inventors have signed the Declaration. Assignee signs in place of the remaining inventor. MPEP 715.04.

The Section 131 Declaration is seasonably presented for the reasons set forth in the separate paper titled Showing of Good Cause under Section 116.

Therefore, neither Siegel nor Takae qualify as “prior art” because both Siegel and Takae were filed after the Reduction to Practice date of at least December 8, 2000.

Applicants respectfully request that this rejection be withdrawn.

SECOND GROUND OF REJECTION

The Office rejected claims 11-14, 25-28, and 39-42 under 35 U.S.C. § 103(a) as being unpatentable over Seigel et al., Takae et al., and Kirkpatrick et al. and further in view

¹ Although Takae claims priority from Japanese application 2000-305298, its date for section 102(e) purposes is its United States filing date. MPEP 706.02(f)(4) states that:

Foreign applications' filing dates that are claimed in applications, which have been published as U.S. or WIPO application publications or patented in the U.S., may **not** be used as 35 U.S.C. § 102(e) dates for prior art purposes. This includes international filing dates claimed as foreign priority dates under 35 U.S.C. 365(a).

Therefore, the March 14, 2001 date of Takae must be used.

of Thomson et al. (U.S. Patent Application 2003/0061104). Applicants respectfully traverse this rejection.

As stated above, a Declaration under section 131 is filed herewith. The Declaration shows that the invention was reduced to practice in the United States at least as early as December 8, 2000. This date is before the filing date of both Siegel (filed December 20, 2000) and Takae (filed March 14, 2001).

Therefore, Applicants assert that neither Siegel nor Takae qualify as "prior art." Applicants respectfully request that this rejection be withdrawn.

PREVIOUSLY ENTERED ARGUMENTS

Applicants also reiterate the arguments presented in the paper dated September 17, 2004, which are hereby incorporated by reference.

CONCLUSION

Based on the above amendment, Applicants believe all claims now pending in the present application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If there are any charges related to this response, the Examiner is hereby authorized to charge to White & Case Deposit Account 23-1703. Applicants thank the Examiner for carefully examining the present application. If a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact Thomas DelRosario at (650) 213-0300.

Appl. No. 09/826,121
Amdt. dated July 27, 2005
Reply to Office Action of Jan. 27, 2005

Respectfully submitted,

Dated: July 27, 2005

By:

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a cursive representation of the name Thomas V. DelRosario.

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